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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/601,077	06/20/2003	William H. Fort	PCB105	7049

32047 7590 10/31/2007
GROSSMAN, TUCKER, PERREAULT & PFLEGER, PLLC
55 SOUTH COMMERICAL STREET
MANCHESTER, NH 03101

EXAMINER

KRAUSE, JUSTIN MITCHELL

ART UNIT	PAPER NUMBER
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3682

MAIL DATE	DELIVERY MODE
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10/31/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/601,077

Applicant(s)

FORT ET AL.

Examiner

Justin Krause

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 August 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5, 7-10, 12, 13 and 23-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-10, 12, 13 and 23-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The specification does not refer to the solenoid or the latching lever as being "mounted" to the base plate. While the orientation of parts can be determined from the drawings, the scope of the term "mounted" as applicant intends, cannot. Since no definition of the term has been provided, the broadest reasonable interpretation will be used.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 5, 7, 9, 12, 23, 25, 27 and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by Smale et al (US Patent 5,566,581).

Smale discloses an actuator comprising:

-A base plate (46)

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-A latching lever (34) mounted to the base plate (fig 2) pivotable between first and second positions and comprising a lever bearing surface (the flat surface on the underside, generally 40)

-A stationary bearing surface (in figure 3, above numeral 56)

-A solenoid (52) mounted to the base plate, comprising a plunger (56) movable between an extended position and a retracted position, in the first position, the plunger is disposed between the lever bearing surface and the stationary bearing surface, in the retracted position of the plunger, the lever is not blocked from pivoting between the first and second positions.

The lever is biased towards one of the first and second positions.

The plunger is biased towards the extended position when the solenoid is in an unenergized state.

A mechanical switch (80) is closed when the lever is in the first or second position.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smale in view of Dörr et al (US Patent 5,379,872).

Smale discloses all of the claimed limitations as described above.

Smale does not disclose one of said lever bearing surface and said stationary bearing surface comprising a roller.

Dörr teaches an actuator with a roller (9), which allows the actuator to move with low forces (Col 4, lines 42-44).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the teachings of Smale and add a roller as taught by Dörr to one of, or both of the lever bearing surface (13) and the stationary bearing surface (24) to reduce friction (Col 3, line 15) and allow the actuator to be moved with low forces.

Claims 4, 10 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smale in view of Kataumi et al (US Patent 5,421,792).

Smale discloses all of the claimed limitations as described above, including a spring (30) which biases the lever, but does not specify a type of spring.

Kataumi teaches a torsion spring (46) to press a lever in the park position (Col 5, lines 28-32).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the teachings of Smale and add a torsion spring as taught by Kataumi in order to bias the latching lever towards a park position.

Claims 8, 13 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smale in view of Mochida (US Patent 4,473,141).

Smale discloses all of the claimed subject matter as described above but does not disclose a wedge shaped portion on the plunger.

Mochida teaches a wedge shaped portion of a plunger (31a) for the purpose of forcing the lever bearing surface towards one of the first and second positions, preventing the lever from being jammed in an intermediate position. (Col 3, lines 49-51).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the plunger of Smale with a wedge shaped portion to make the engagement with the lever bearing surface easier by providing a sloped surface for it to travel on and biasing it towards the first or second position, preventing the lever bearing surface from becoming jammed in an intermediate position.

Response to Arguments

Applicant's arguments filed August 20, 2007 have been fully considered but they are not persuasive.

Regarding applicant's argument that Smale does not disclose the latching lever and the solenoid mounted to the base plate, under the broadest reasonable interpretation, "mount" is defined in Merriam-Webster's Collegiate Dictionary, 10th edition, as "to arrange or assemble for use or display". Following this definition, when the device is completed in an operable state for use, both the latching lever and the

solenoid are arranged on the base plate, see for example, figure 2. Having satisfied the definition of "mounted" as recited in the dictionary, Smale anticipates the claims as recited.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin Krause whose telephone number is 571-272-3012. The examiner can normally be reached on Monday - Friday, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Ridley can be reached on 571-272-6917. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JMK
JMK 10/24/07


RICHARD RIDLEY
SUPERVISORY PATENT EXAMINER